

**TOWN OF DAVIE  
REGULAR MEETING  
FEBRUARY 5, 2003**

**1. PLEDGE OF ALLEGIANCE**

The meeting was called to order at 7:03 p.m. and was followed by the Pledge of Allegiance.

**2. ROLL CALL**

Present were Mayor Venis (departed at 11:57 p.m.), Vice-Mayor Clark, Councilmembers Paul, Starkey, and Truex. Also present were Town Administrator Willi, Town Attorney Kiar, and Town Clerk Muniz recording the meeting.

**3. OPEN PUBLIC MEETING**

Mayor Venis advised of the rules of the Open Public Meeting.

Paul Conley, 7801 SW 18 Place, spoke of the permit he was denied for a mobile home. He asked for assistance from Council with resolving this matter. Mayor Venis directed Mr. Kutney to assist Mr. Conley.

Dan Pignato, Chair of the Airport Advisory Board, spoke of the goals of the committee and the concerns that residents should have pertaining to this issue. He urged residents to attend a meeting of the Airport Advisory Board on February 6th at the Dania Firehouse on Stirling Road.

Bob Frengel, 2261 SW 83 Avenue, spoke of traffic concerns on SW 87 Terrace. He stated that the signage was inadequate and asked that it be investigated.

Barbara Tilly, president of the Park City Homeowners Association, spoke of a hazardous bike path along Nova Drive and asked that it be investigated. She also spoke about the SW 18 Street median and the lack of maintenance. Ms. Tilly advised that there was a question as to who was responsible for this maintenance, whether it was the Town or the owner of the property. She was anticipating an answer from Mr. Kiar who indicated that he had never been contacted about this. Mr. Willi indicated that the Town was not responsible for maintaining medians.

Ms. Tilly stated that a resident had installed *Sun Sentinel* boxes in front of his home on a Town easement. She wanted to know if this was legal. Vice-Mayor Clark stated that this would be investigated.

Jon Pisula, 2933 SW 136 Avenue, thanked Councilmember Starkey for getting involved with the airport expansion issue. He spoke of his support for Councilmember Truex's bid for Mayor for the Town. Mr. Pisula also spoke of the Orange Blossom Festival and the Strawberry Festival sponsored by the Davie Women's Club. He reported that the Annual Canal Cleanup was scheduled for March 15th.

Constance Savory Young, executive director of the Old Davie School Historical Museum, introduced herself. She invited residents to visit the site and participate in the different programs offered there.

Arthur Joseph, 13700 SW 18 Court, spoke of the record number of passengers that used the Fort Lauderdale International Airport and felt that Council should not fight the expansion. He felt that the expansion was necessary to accommodate the growth of Broward County and it

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was inevitable. Mr. Joseph clarified that more pollution was created on a daily basis from the poor planning of I-595 than would ever come from the airport expansion.

Mr. Joseph expressed his sympathy for the NASA crew and gave his condolences to Mr. Kiar for the passing of his uncle.

Councilmember Starkey expressed that Fort Lauderdale was expected to have the same number of flights as New York's JFK Airport, which in terms of acreage was three times larger. She invited Mr. Joseph to attend the Airport Advisory Board meetings so that he could get more information. Mr. Joseph stated that he had been invited to join the Board by one of the Councilmembers, but once he stated that he was for the expansion, his name was dropped. He felt many residents were in favor of the expansion and were deterred because the Town had firmly taken the position that they were not in favor of the expansion. Mr. Joseph felt the Town gathered a committee of inexperienced residents that could not provide the community with valid information, as it would only gather facts that supported the views of Council, not of the residents at large.

Norman Blanco, 2080 SW 72 Avenue, recognized Vice-Mayor Clark's efforts during her tenure as a Councilmember. He presented her with a gift of a Native American painting and thanked her for all she had done for the Town of Davie.

Mike Bender, 14800 SW 31 Court, Vice-Chair of the Planning and Zoning Board, advised that he was running for Mayor. He indicated what his platform was and spoke of his previous service on behalf of the Town residents.

Mark Gabrielson, 15095 SW 27 Street, spoke of the response to the needs of residents that were exemplified by a response from Councilmember Paul and Mike Bender. He spoke of the Airport Expansion issue and was concerned with the impact it would have on the wildlife in the Town.

Judy Ochart, 11021 SW 15 Manor, spoke of a request for a fee waiver at Robbins Lodge to have a fundraiser for Aplastic Anemia. Mr. Willi was instructed to add this to the next agenda.

Margaret Hyotte, 4422 SW 84 Terrace, spoke of the proposed Charter School on Pine Island Road and Orange Drive. She stated that residents in Pine Island Bay were not notified about this. Ms. Hyotte had concerns about traffic impact and asked that residents be notified more expeditiously in the future. Mr. Willi advised that a meeting was scheduled to discuss this issue with the public, Councilmember Starkey, and Development Services on February 11th. He indicated that a meeting with residents would be scheduled.

Councilmember Paul expressed that Council was led to believe that residents were consulted regarding the Charter School. She asked if this was a misrepresentation and if Council had the authority to reconsider the site plan if residents were against it. Mr. Willi indicated that residents were informed and did not believe Council could readress this issue. He deferred the question to Mr. Kiar.

Ms. Hyotte stated that one of her neighbors had read an article about this in the newspaper, but otherwise no one was informed about it until the day of this meeting. Councilmember Starkey was concerned that residents received notice on the day of this meeting as this item was on the agenda. Councilmember Truex indicated that he was told by the attorney of the developer that they had informed the residents. Councilmember Starkey referred to the backup, which stated which groups were notified and Pine Island Bay was not included.

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Wayne Arnold thanked Vice-Mayor Clark for her efforts and Mayor Venis for addressing the needs of the community. He spoke of his bid for the Councilmember seat for District 1 and his past efforts on behalf of the Town, especially with the Central Broward Water Control District and the Community Redevelopment Agency.

John Stevens, 45 Matador Lane, spoke of the resolution regarding traffic enforcement on the agenda for Valencia Village and urged Council to approve the agreement. He also expressed his "strong support" for Councilmember Truex.

Mayor Venis announced that item 9.8 was withdrawn by staff and item 9.7 was requested to be tabled until March 19, 2003.

Councilmember Paul made a motion, seconded by Councilmember Starkey, to table. In a voice vote, all voted in favor. (Motion carried 5-0)

Mayor Venis announced that items 7.21 and 7.22 were requested to be added to the Consent Agenda.

Councilmember Paul made a motion, seconded by Vice-Mayor Clark, to add. In a voice vote, all voted in favor. (Motion carried 5-0)

Councilmember Paul announced that the Town was working diligently to insure that the March 11, 2003 elections ran smoothly. As some residents indicated they were having trouble getting absentee ballots, she had contacted the Supervisor of Elections Office for support. Request cards for absentee ballots would be available at Town Hall for residents beginning February 6th.

Shirley Taylor-Prakelt introduced the new Neighborhood Coordinator Angela Hill. She also announced the groundbreaking of 22 new single-family homes in Harmony Village on February 8th. Ms. Taylor-Prakelt thanked Council for donating the four-acre parcel to Habitat for Humanity for this project.

Mayor Venis congratulated several soccer players in the 18-year-old category of the Davie United Soccer League, who received scholarships to various colleges.

**4. MAYOR/COUNCILMEMBER'S COMMENTS** (comments were provided at the end of the meeting)

**COUNCILMEMBER STARKEY**

**HAPPY BIRTHDAY.** Councilmember Starkey wished her son a happy 22nd birthday.

**COUNCILMEMBER TRUEX**

**WESTRIDGE.** Councilmember Truex questioned how the issue with the Westridge and Abianca Circle was going to be resolved. Councilmember Starkey referred to the meeting of the Open Space Advisory Committee and stated that residents had spoken. There was an agreement to have staff look into all legal issues regarding survey issues and lot lines. She felt that all legal avenues needed to be exhausted before decisions were made. Councilmember Starkey questioned who owned the actual property and what promises were made by the

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developer. She indicated that there was evidence that the deed was never recorded. Also, the property in question was supposed to be a landscape buffer and not a trail. Mr. Willi indicated that staff was in the process of compiling a comprehensive report and it would be presented to Council.

Councilmember Starkey stated that the report was suppose to go to the Open Space Advisory Committee and they needed to get a legal opinion so a decision could be made. Councilmember Paul clarified that the Open Space Advisory Committee made a request, as their role was only to make recommendations to Council, not decisions.

Councilmember Truex suggested that this be added to a future Council agenda and residents be invited to address it and then Council could make a decision.

**5. TOWN ADMINISTRATOR'S COMMENTS**

No comments were provided.

**6. TOWN ATTORNEY'S COMMENTS**

No comments were provided.

**7. CONSENT AGENDA**

*Minutes*

7.1. December 18, 2002 - Regular Meeting

*Parade/Run Permit*

7.2. Davie/Cooper City Chamber of Commerce/Orange Blossom Festival (February 22, 2003)

7.3. Nova Southeastern University/ American Heartwalk (February 22, 2003)

*Home Occupational Licenses*

7.4. Blue Lagoon Pools & Spas, Inc., 1751 SW 117 Avenue

7.5. Décor Care, 14691 SW 18 Court

7.6. When Pigs Fly, 13851 SW 29 Street

*Resolutions*

7.7. **PLAT REVISION** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,  
R-2003-25 AUTHORIZING A REVISION TO THE RESTRICTIVE NOTE OF THE  
"UNIVERSITY PARC PLAT", AND PROVIDING AN EFFECTIVE DATE. (DG  
12-2-02, 7085 Nova Drive) (tabled from January 2, 2003)

7.8. **AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,  
R-2003-26 AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT BETWEEN  
VALENCIA VILLAGE CONDOMINIUM ASSOCIATION AND THE TOWN OF  
DAVIE POLICE DEPARTMENT FOR TRAFFIC CONTROL.

7.9. **AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,

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R-2003-27      AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT BETWEEN  
CRYSTAL GROVE ESTATES HOMEOWNERS ASSOCIATION, INC. AND THE  
TOWN OF DAVIE POLICE DEPARTMENT FOR TRAFFIC CONTROL

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- 7.10. **SERVICE AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE,  
R-2003-28 FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE A SERVICE  
AGREEMENT FOR INFECTIOUS DISEASE VACCINATIONS PROGRAM  
BETWEEN THE TOWN OF DAVIE, GLOBAL MRO, AND GLAXOSMITHKLINE  
FOR EMERGENCY PERSONNEL. (\$32, 990.24)
- 7.11. **BID** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, ACCEPTING  
R-2003-29 THE BID FOR LAWN MAINTENANCE AT VARIOUS UTILITY SITES. (EDJ  
Lawn Service - \$12,340/year)
- 7.12. **BID** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, ACCEPTING  
R-2003-30 THE BID FOR REPLACEMENT OF FLOOR AND WALL TILE IN VARIOUS  
TOWN FACILITIES. (B & B Contracting, Inc. - \$26,200)
- 7.13. **WAIVER OF FEES** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,  
R-2003-31 AUTHORIZING WAIVING OF THE FACILITY RENTAL FEES IN THE  
AMOUNT OF \$1,090 FOR USE OF THE GYMNASIUM AND CYPRESS HALL  
AT THE DAVIE PINE ISLAND PARK MULTIPURPOSE CENTER ON MARCH  
30, 2003, TO HOST THE MISS DAVIE PAGEANT. (\$1,090)
- 7.14. **GRANT COMMITMENT** - A RESOLUTION OF THE TOWN OF DAVIE,  
R-2003-32 FLORIDA, COMMITTING \$2,500 IN MATCHING FUNDS FOR THE OLD  
DAVIE SCHOOL HISTORICAL MUSEUM'S GRANT APPLICATION TO THE  
INSTITUTE OF MUSEUM AND LIBRARY SERVICES.
- 7.15. **DRAINAGE EASEMENT** - A RESOLUTION OF THE TOWN OF DAVIE,  
R-2003-33 FLORIDA, TO ACCEPT DRAINAGE EASEMENTS. (2751 and 2801 SW 141  
Terrace)
- 7.16. **REZONING PETITION DESIGNEE** - A RESOLUTION OF THE TOWN OF  
R-2003-34 DAVIE, FLORIDA, AUTHORIZING THE TOWN ADMINISTRATOR AS THE  
DESIGNEE FOR THE TOWN COUNCIL FOR REZONING PETITIONS, AND  
PROVIDING AN EFFECTIVE DATE.
- 7.17. **SUBDIVISION PLAT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,  
R-2003-35 APPROVING A SUBDIVISION PLAT KNOWN AS SHOTGUN EAST AND  
AUTHORIZING THE MAYOR AND TOWN CLERK TO ACKNOWLEDGE  
SUCH APPROVAL BY AFFIXING THE MAYOR'S SIGNATURE AND THE  
TOWN SEAL TO SUCH PLAT; AND PROVIDING AN EFFECTIVE DATE. (P 9-  
2-02, Shotgun East, 4201 SW 154 Avenue)
- 7.18. **ZONING IN PROGRESS** - A RESOLUTION OF THE TOWN OF DAVIE,

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R-2003-36 FLORIDA, INITIATING AND DECLARING A PLANNING AND ZONING IN PROGRESS FOR ADULT GAMES AND ARCADES; PROVIDING FOR AN EFFECTIVE DATE.

*Master Site Plan*

7.19. MSP 8-1-02, Parkside Estates of Davie, 8901 Orange Drive Site Plan Committee recommended approval subject to the planning report and that the following conditions be met before permits were to be issued: 1) that both sides of the street have sidewalks; 2) that five feet off the sidewalk, the street trees should be planted consistently throughout the neighborhood; 3) sidewalks are to go up to the park and the details are to be worked out with the Parks and Recreation Department regarding gates for entry into the park; 4) to work out the placement of a horse crossing onto Orange Drive on the site through the landscaping wherever the Town requests the horse crossing to be installed; 5) all decorative features including false shutters and bands are to be consistent on the top around the house where applicable; 6) install windows on models "B" and "C" on the right and left sides where the home theater and family was located; and 7) that the landscape plans barely meet Code and should be upgraded on the houses as the commons areas were okay

*Temporary Use Permit*

7.20. TU 12-1-02, St. Bernadette Church, 7450 Stirling Road

Councilmember Truex requested that item 7.13 be removed from the Consent Agenda. Vice-Mayor Clark requested that item 7.20 be removed. Councilmember Paul requested that items 7.17 and 7.19 be removed

Councilmember Starkey made a motion, seconded by Councilmember Paul, to approve the Consent Agenda without items 7.13, 7.17, 7.19, and 7.20. In a voice vote, with Mayor Venis being absent, all voted in favor. (Motion carried 4-0)

7.13 Councilmember Truex questioned if a policy was being worked on by staff to address requests for waivers. Mr. Willi indicated that there was a policy for waivers for non-profit organizations. Mr. Cohen clarified that this was for Davie non-profit organizations. He indicated that staff had requested documentation to show that this organization was non-profit which had not been provided. He indicated that if the non-profit petitioner did not meet the criteria, the request would not be forwarded to Council for consideration, whereas if the documentation was provided, staff could approve it without Council's consideration.

Discussion followed whether non-Davie based non-profit organizations should receive waivers.

Councilmember Truex made a motion, seconded by Councilmember Starkey, to approve subject to documentation that the organization was non-profit. In a voice vote, with Mayor Venis being absent, all voted in favor. (Motion carried 4-0)

7.17 Councilmember Paul asked that it be noted that the archeological site was on the boundary line and could not be easily separated. She wanted assurance that this site could not be mitigated.

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Gladys DiGiorno, representing the petitioner, indicated that the archeological site was preserved and it was shown on the plat.

Councilmember Paul made a motion, seconded by Councilmember Starkey, to approve. In a voice vote, with Mayor Venis being absent, all voted in favor. (Motion carried 4-0)

7.19 Councilmember Paul wanted assurance that all recommendations made by the Site Plan Committee were included, one of which was a path to the park. She asked where the petitioner was planning this path.

Gary Poson, representing Parkside Estates, stated that this was addressed and the goal was to make it pedestrian friendly with two pathways.

Councilmember Paul wanted assurance that the two historical buildings were going to be preserved as promised. Mr. Poson responded in the affirmative and stated that this would be part of the entrance feature. Councilmember Paul recommended that the buildings be registered and historical markers be obtained. Mr. Poson agreed. Councilmember Paul questioned if the developer was planning a gate. Mr. Poson replied affirmatively, stating that the homes would start at \$900,000. He mentioned other concessions made and the gate was necessary.

Councilmember Paul made a motion, seconded by Councilmember Truex, to approve based on the recommendations from the Site Plan Committee, the representation that was made for the two pathways into the park that have identified, and the preservation of the two houses. In a voice vote, with Mayor Venis being absent, all voted in favor. (Motion carried 4-0)

7.20 Dan Pignato, 6920 SW 56 Court, thanked Tammy in the Building Division for her assistance with the permits.

Councilmember Paul made a motion, seconded by Councilmember Truex, to approve. In a voice vote, with Mayor Venis being absent, all voted in favor. (Motion carried 4-0)

**8. NEW BUSINESS**

**8.1. Town Administrator's Evaluation**

Mr. Willi thanked Council for the opportunity to address them and the public regarding the accomplishments of the Town. He spoke of the changing culture within the Town staff and recommended setting new goals for the Town Administrator for the next review period.

Councilmember Starkey indicated she was caught off guard because she thought Mr. Willi's review would be done in June. She spoke of Mr. Willi's proposed amendment that would require a supermajority to terminate his contract and she felt this would diminish the accountability to the public. Councilmember Starkey asked Mr. Kiar for an opinion regarding whether this request would be in conflict with the Town's Charter. She took offense to this item being moved up on the agenda. She felt Mr. Willi should have resolved the Fire Union contract before both putting an addendum on his own contract and moving his evaluation up before the anticipated June timeline. Councilmember Starkey felt this was a self-serving action on his part, but she expressed that she had seen significant improvement nonetheless. She felt an evaluation at this time was not warranted, especially with the absence of an assessment tool, as requested by Council.



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Mr. Willi indicated that the result of the June 2002 meeting was that he would be reviewed in sixth months. He felt the supermajority would not diminish Council's power, but it would ensure that he treated all Councilmembers equally. He also clarified that the Fire Union contract was the responsibility of Council.

Vice-Mayor Clark wanted clarification whether the supermajority would give protection if the Town Administrator was arrested for a crime. Mr. Willi clarified that the supermajority only provided protection if he were to be removed without cause.

Councilmember Truex agreed with Mr. Willi on the improvements to the Town. He agreed with Councilmember Starkey regarding the method of evaluation and the lack of a specific tool. Councilmember Truex felt it would be "incredibly bad policy" to approve the supermajority amendment to the contract. He stated that the employment contract indicated the administrator could be terminated for cause or not for cause. Councilmember Truex outlined issues that would indicate that most terminations were not for cause. He felt that the supermajority amendment should not be approved.

Councilmember Paul agreed with Mr. Willi that the Fire Union contract issue was not his responsibility, but that of Council and that Council had wanted a six-month review. She also agreed that an assessment tool could definitely be utilized and added that she had seen a definite improvement in Mr. Willi's management skills. Councilmember Paul felt that incorporating the supermajority amendment to the employment contract would improve morale and would not prevent future Councils from removing a Town Administrator if so desired.

Councilmember Truex indicated that the supermajority amendment could invite a lawsuit. He suggested increasing Mr. Willi's contract to two years.

Mayor Venis asked Mr. Kiar to explain how much damages Mr. Willi would be entitled to if Council terminated him without the supermajority vote. He asked if a cap could be placed on the amounts of damages Mr. Willi could seek.

Vice-Mayor Clark addressed the residents in attendance and explained why it was important to address this issue at this point in the agenda. She felt Mr. Willi and staff were doing a wonderful job.

Councilmember Paul talked about past discussions with Mr. Willi wherein he expressed his desire to stay with the Town and see out his vision of forthcoming projects.

Mr. Kiar indicated that the supermajority amendment could be done by resolution and asked if Council wanted him to research language that would limit his damage.

Mayor Venis felt that the current Council should review Mr. Willi and was impressed with how Mr. Willi was staying on top of current issues affecting the Town. He felt that Mr. Willi was entitled to the evaluation and to job security.

Councilmember Paul made a motion, seconded by Councilmember Truex, to table to February 19, 2003.

Councilmember Starkey felt an assessment tool needed to be utilized and expressed her desire to utilize it to review Mr. Willi.

In a voice vote, with Vice-Mayor Clark being out of the room, all voted in favor. (Motion carried 4-0)

## 8.2. Vested Rights Determination (Zacco) - Presentation By Applicant

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Later in the meeting, Bill Laystrom, representing the petitioner, explained the nature of the request pertaining to the billboard sign.

Mike Burke, Town's special counsel, indicated that he was present to entertain questions Council might have.

Councilmember Paul wanted clarification from Mr. Laystrom pertaining to revenue to the Town. She asked Mr. Burke if just because the petitioner had renewed his permits every year, did it grant him the vested right to erect the sign. Mr. Burke did not believe that Mr. Zacco was entitled to a vested right as per the Code. Mr. Burke explained that Mr. Zacco was told by the Florida Department of Transportation (FDOT) that since he had a sign permit from them he could go to the maximum sign allowed by FDOT, but that he would have to get a permit from the Town. He further explained that Mr. Zacco wanted to erect a new structure that was prohibited by the Town's Code.

Mr. Laystrom indicated that the Town passed an ordinance to allow 10 billboards special rights. His client had been paying permit fees all the while and was now seeking the same consideration allowed the current billboard owners.

Mayor Venis gave a brief history on the billboard issue. He felt that several billboards other than the 10 included in the ordinance were grandfathered in and they were in the same category as the one owned by Mr. Zacco.

Mr. Laystrom indicated that he had visited the surrounding neighborhoods and none objected to the proposed increase in size.

Councilmember Paul wanted the Town to do further research on the question of reliance. She asked Council if they felt this item warranted tabling. Mayor Venis indicated that the client had been working on this for two years. Vice-Mayor Clark did not object to the request.

Councilmember Paul indicated that Mr. Laystrom had cited a Boynton Beach case and wanted to know if he would sue the Town. Mr. Laystrom indicated that his client did not want to use this strategy. He felt that because of Mr. Zacco's circumstances, Council should be flexible as this was not a new application for a billboard and all he wanted was the same terms as other billboards.

Mario Zacco, 2011 SW 70 Avenue, indicated that when he went to secure the sign the only regulatory agency was FDOT and that was why he had continued to renew the permit. He explained that the Town originally did not have jurisdiction over the billboards, but now that they did, he was being penalized. Mr. Zacco felt that he had vested rights and that he should be grandfathered in. He indicated that Mr. Kiar and Mr. Burke were referring to present laws, not laws that were in place 20 years ago when he first erected his sign. Mr. Zacco also stated that Mr. Kutney had told him that if he obtained a permit from FDOT that allowed for the larger sign he was requesting, then the Town would allow it. Once he received the permit from FDOT, which was immediately after the conversation with Mr. Kutney, he was told that he could not erect the sign.

Mayor Venis believed that Mr. Zacco was grandfathered in and felt he should get the vested right.

Councilmember Truex asked Mr. Burke if the reliance had to be from the Town or if it could be from the federal government. Mr. Burke indicated that the reliance would have been from the Town. He felt that Mr. Zacco was grandfathered in for what he built 20 years ago, but the right would no longer apply if it was changed.

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Vice-Mayor Clark asked what the current height requirement was. Mr. Kutney indicated that the limit was 60 feet. Vice-Mayor Clark was relieved to hear that the request was less than the maximum allowed by the current code.

Councilmember Paul asked what the distance was from the nearest billboard. Mr. Laystrom indicated that the sign was approximately 2,000 feet from the next billboard. Councilmember Paul expressed a desire to get confirmation of the distance from the existing billboards. She asked again if this issue could be tabled to the next meeting.

Vice-Mayor Clark wanted a list of signs that were approved by FDOT and that could potentially fall under the same circumstances as Mr. Zacco's sign.

Councilmember Paul made a motion, seconded by Vice-Mayor Clark, to table to February 19, 2003. In a voice vote, all voted in favor. (Motion carried 5-0)

**9. PUBLIC HEARING**

*Ordinance - Second and Final Reading*

- 9.1. **CODE AMENDMENT - AN ORDINANCE OF THE TOWN OF DAVIE,\**  
2003-3 **FLORIDA, AMENDING ORDINANCE 88-70 BY AMENDING CHAPTER 2**  
**ARTICLE VII, SECTION 2-316 AND 2-317 OF THE TOWN OF DAVIE'S**  
**PURCHASING PROCEDURES; PROVIDING FOR SEVERABILITY; AND**  
**PROVIDING AN EFFECTIVE DATE.**

Town Clerk Muniz read the ordinance by title.

Mayor Venis opened the public hearing portion of the meeting. As no one spoke, the public hearing was closed.

Councilmember Paul made a motion, seconded by Councilmember Truex, to approve. In a roll call vote, the vote was as follows: Mayor Venis - yes; Vice-Mayor Clark - yes; Councilmember Paul - yes; Councilmember Starkey - out of room; Councilmember Truex - yes. (Motion carried 4-0)

*Ordinances - First Reading (Second and Final Reading to be held February 19, 2003)*

- 9.2. **REZONING - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA,**  
**APPROVING REZONING PETITION ZB 2-1-02, CHANGING THE**  
**CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE**  
**FROM AG, AGRICULTURAL DISTRICT TO CF, COMMUNITY FACILITIES**  
**DISTRICT; AMENDING THE TOWN ZONING MAP TO COMPLY**  
**THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN**  
**EFFECTIVE DATE. (ZB 2-1-02, Voigt/Hanmi Baptist Church, 2150 Flamingo**  
**Road) (tabled from December 4, 2002)**

Mayor Venis advised that the second and final reading would be held at the February 19, 2003 Council meeting. Town Clerk Muniz read the ordinance by title.

Councilmember Paul asked if this item could be taken along with item 9.5. Mayor Venis advised that this item would be taken "subject to" item 9.5, which was a quasi-judicial item.

Jon Voight, representing the petitioner, spoke on previous discussions regarding this issue. His position was that the property in question was not in need of a variance, as recommended by staff.

Mayor Venis opened the public hearing portion of the meeting.

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Jun Kim, 4870 Hawkes Bluff Avenue, parishioner of this church, indicated why this rezoning was needed.

Ethan Lobriel, 2221 SW 120 Terrace, felt that it was important to keep this site zoned AG. He cited comments from the Planning and Zoning Board, which corroborated his feelings on this issue.

Greta Peck, 2221 SW 120 Terrace, indicated that the letter received by the petitioner dated August 27, 2002 was not a consensus of the views expressed by the entire community, but only the opinion of two residents. She also indicated the Dr. Miranda was not on the board of the homeowner's association and had no authority to make decisions or recommendations for the Paradise Pines Community.

Mayor Venis closed the public hearing.

Mr. Voight advised that his client had offered a height restriction and explained why Dr. Miranda was consulted. He also stated that his client was willing to reduce the whole size of the facility, as the congregation was small. Mr. Voight indicated that he and his client were willing to meet with the residents to further discuss this rezoning.

Mayor Venis felt it was advisable for the petitioner to meet with all of the residents that would be affected by this rezoning. Councilmember Paul felt that it should be mandatory for petitioners to meet with residents prior to coming to Council. She also questioned why the Planning and Zoning Board unanimously voted against this item.

Mr. Voight explained that there was a miscommunication in regard to who represented the opinion of the residents.

Councilmember Starkey indicated that she would like to be at the meeting with the residents and the petitioner.

Mayor Venis asked Mr. Voight when it would be advisable to table this item to. Mr. Voight indicated that he could meet with residents within two weeks of this meeting. Council agreed that the item should be tabled until February 19, 2003.

Vice-Mayor Clark commended Mr. Voight for his presentation of the facts and she felt well informed and was looking forward to the meeting with the residents. She felt that this was a serious concern, especially with the circumstances regarding the proposed adjacent church. Vice-Mayor Clark felt the petitioner had followed procedure and was being given the run around.

Councilmember Truex felt that any proposed church within the Town was a tremendous commitment and indicated that he was prepared to approve the request at this time. He felt this congregation was amenable to the needs of the residents and was willing to make whatever concessions were necessary in order to have their church.

Councilmember Starkey wanted to hear from the rest of Council if she was going to be representing the Council at the community meeting because there seemed to be a difference of opinion. Councilmember Paul corrected that Councilmember Starkey would be representing her district and not the entire Council. Councilmember Paul wanted to have all the information before making any decisions on this item.

Councilmember Paul made a motion, seconded by Councilmember Starkey, to table items 9.2 and 9.5 to February 19, 2003. In a roll call vote, the vote was as follows: Mayor Venis - yes; Vice-Mayor Clark - yes; Councilmember Paul - yes; Councilmember Starkey - yes; Councilmember Truex - yes. (Motion carried 5-0)

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Councilmember Paul asked for a copy of the Planning and Zoning Board recording so that she could listen to the arguments.

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- 9.3. **LAND USE PLAN AMENDMENT - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, ADOPTING, APPLICATION LA 02-9, AMENDING THE TOWN OF DAVIE COMPREHENSIVE PLAN BY CHANGING THE FUTURE LAND USE PLAN MAP DESIGNATION OF CERTAIN LANDS FROM "COMMERCIAL TO "RESIDENTIAL 10 DU/AC"; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.** (tabled from January 2, 2003) (Requires Supermajority Vote for Approval)

Mayor Venis advised that the second and final reading would be held at the February 19, 2003 Council meeting. Town Clerk Muniz read the ordinance by title.

Development Services Director Mr. Kutney summarized the staff report.

Dennis Mele, representing the petitioner, outlined the intended use of this property.

Councilmember Truex asked why the conservation area would remain zoned B-2. Mr. Mele indicated that because the parcel was larger than 10 acres, there would need to be a large-scale amendment to change the zoning on this area. He asked that this item be approved with certain conditions as outlined in Council's backup materials, which included the site plan. Mr. Mele felt that approving this residential project would reduce traffic by 90% of what would be allowed.

Councilmember Starkey asked if Mr. Mele would be opposed to restricting use of the commercial portion of the property to prohibit game rooms and other "obnoxious" uses. Mr. Mele agreed and stated that the issues specifically dealing with the proposed gas station would be addressed on March 5, 2003. Councilmember Starkey commended the efforts of Mr. Mele, staff and the community on this project.

Councilmember Paul indicated that the Town was moving forward with the Land Trust and wondered if the three and one-half acres would be suitable for the Land Trust. Mr. Kutney indicated that it might meet the criteria.

Councilmember Paul indicated that there were many birds on this site and they would be lost once the "exotic" trees were removed. She hoped that when the developer replants the area, large trees would be included to bring back some of these birds. Mr. Mele indicated that the landscape architects already increased the sizes of the proposed trees.

Councilmember Paul asked if there was any way to abandon the plan for the gas station. Mr. Mele indicated that a contract was in place for a gas station prior to his client purchasing the property and it was part of the deal. He stated that the aesthetics surrounding the gas station would make it more appealing than would be expected.

Mr. Kiar pointed out that there was a 250 foot rule for structures near a gas station and wanted to know how this was being addressed by the petitioner. Mr. Mele stated that a variance request had already been submitted for this. He also indicated that there were many gas stations around the Town that were approved without meeting this criteria. Mr. Mele felt this was more of a zoning issue than a safety issue.

Councilmember Paul heard that the 10 dwelling units per acre was the maximum and when the project came forward, it might actually be less. Mr. Mele indicated that they were proposing 100 town homes which met the Code requirements. Councilmember Paul felt that the impact on the schools from this development was inaccurately stated as generating 27 children from 100 homes. She also spoke of the intersection at Pine Island Road and Orange Drive and felt that the median being closed to crossing traffic would create problems.

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Councilmember Paul asked Mr. Mele to assist in getting a functioning light from FDOT and to remove the median. Mr. Mele agreed to the latter.

Councilmember Paul felt that the petitioner's request to give up flex units should not be done unless the Town received something in return. Mr. Mele indicated that the number of projected students was provided by the School Board. He added that his client would be willing to help with the traffic situation. Mr. Mele stated that as per the County's Land Use Plan a developer could not compensate a city or town for flex units.

Mr. Kutney indicated that Mr. Mele's assertion that the Town could not charge a developer for flex units was correct. Mr. Willi agreed with Mr. Kutney.

Mayor Venis opened the public hearing portion of the meeting.

Lloyd Procton, attorney for Pine Island Lakes Homeowners Association, appreciated Council's involvement with this project. He expressed his concern that Council would approve the ordinance without the backup provided. Mr. Procton stated that the residents approved this ordinance conditional upon the January 22, 2003 agreement with the residents and the January 2003 site plan.

Mayor Venis closed public hearing.

Councilmember Truex asked Councilmember Starkey if the person who spoke earlier was concerned with this project and not being notified. Councilmember Starkey indicated in the affirmative and pointed to an item in Council's backup material and voiced concerns about late notification for Pine Island Bay. Mr. Mele stated that many notices were going out for various parts of this application and he did not know who was notified of this hearing.

Mr. Willi indicated that the Town Clerk's Office stated that 79 notices were sent out regarding this hearing in November, but it was not clear if these were sent to Pine Island Bay. Councilmember Starkey asked that copies of the notice be provided to Council.

Vice-Mayor Clark made a motion, seconded by Councilmember Truex, to approve. In a roll call vote, the vote was as follows: Mayor Venis - yes; Vice-Mayor Clark - yes; Councilmember Paul - yes; Councilmember Starkey - yes; Councilmember Truex- no. (Motion carried 4-1)

*Resolution*

9.4. **SALE OF PROPERTY - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA**  
R-2003-38 **PLACING THE THREE HIGHEST BIDS FOR THE FORMER YOUNG AT ART MUSEUM SITE IN ORDER OF PRIORITY AND DIRECTING THE TOWN ADMINISTRATOR OR HIS DESIGNEE TO NEGOTIATE A PROPERTY SALES AGREEMENT WITH THE TOP SELECTION. IF AN AGREEMENT CANNOT BE REACHED WITH THE TOP SELECTION THAN AUTHORIZING THE TOWN ADMINISTRATOR TO NEGOTIATE A PROPERTY SALES AGREEMENT WITH THE SECOND CHOICE.**

Town Clerk Muniz read the resolution by title.

Mayor Venis opened the public hearing portion of the meeting. As no one spoke, the public hearing was closed.

Councilmember Truex indicated that he was in favor of approving the top two bids as the third bid was considerably lower than the others. Councilmember Paul expressed her desire

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to include all three bids. Assistant Town Administrator Ken Cohen indicated that the resolution stated that all three bids should be included and therefore, there was no aversion to including all three bids.

Councilmember Starkey spoke of the impacts to the community, the revenues that could be generated and how they must be considered with the contract. She stated that residents were concerned with the possibility of a warehouse structure with the first bidder and an office park that would generate a great deal of traffic with the second bidder. Councilmember Starkey further outlined other concerns of the residents. Mr. Cohen indicated that the Town had complete control over what type of project could be completed and approving this item would not cause the Town to lose any of that control.

Vice-Mayor Clark felt that including the public at this stage of the game would be a mistake. She clarified that this was a bid and once the bid was accepted, it would be staff's responsibility to regulate the project. Mayor Venis clarified that the public would be brought in at the rezoning stage.

Councilmember Paul stated that she had spoken with Mr. Kalis and the Wells would not have the kennel runs outside so it would not be disruptive to the residents.

Councilmember Truex felt that Councilmember Starkey raised some valid points, but he felt that as Mr. Cohen had indicated, the Town would have the final say as to what type of project could be built. He felt that the proposed use of the property as an office building was appropriate.

Councilmember Truex made a motion, seconded by Vice-Mayor Clark, to approve. In a roll call vote, the vote was as follows: Mayor Venis - yes; Vice-Mayor Clark - yes; Councilmember Paul - yes; Councilmember Starkey - yes; Councilmember Truex - yes. (Motion carried 5-0)

*Quasi Judicial Items*

- 9.5. **VARIANCE** - V 2-1-02, Voight/Hanmi Baptist Church, 2150 Flamingo Road (tabled from December 4, 2002) (to reduce the minimum separation of freestanding houses of worship from 2,500 feet to 2,300 feet) *Planning and Zoning Board recommended denial*

This item was tabled earlier in the meeting.

- 9.6. **VARIANCE** - V 10-6-02, AutoNation, Inc./MS&S Toyota, Inc., 4050 West Road (tabled from January 2, 2003) (to increase the height of an interstate sign from 50 feet to 65 feet; to increase the total square footage of freestanding signs from the permitted 120 square feet to 272.41 square feet; and to reduce the setback of the proposed interstate sign from 65 feet to 50 feet) *Planning and Zoning Board recommended denial*

Mayor Venis swore in the witnesses. Planning and Zoning Manager Fernando Leiva explained the nature of the request.

Dennis Mele, representing the petitioner, displayed an aerial photograph and a collage of photographs that illustrated the proposed location of the sign.

Councilmember Paul asked what hardship the petitioner would suffer if the variance was not granted. Mr. Mele indicated that his client's locale could not be easily located from



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Weston Road because of the canal. He stated that the zero setback would allow the sign to be 15 feet closer to the road, but it would still be behind the canal and it would be in line with the other signs.

Mayor Venis opened the public hearing portion of the meeting. As no one spoke, the public hearing was closed.

Councilmember Paul asked if Rick Case Honda and the Winn Dixie Shopping Center had received variances for their signs. Mr. Leiva did not have this information on hand. Councilmember Paul did not recall any variances. Mr. Mele indicated that he did have a variance for the Winn Dixie Shopping Center for the parking lot landscape islands, but not for signage. He clarified that petitioners had to file variances simultaneously or they would have to wait one year between each variance. Mr. Mele indicated that he had also filed a variance for Home Depot for the parking lot landscaping island, but not for signage.

Councilmember Truex made a motion, seconded by Vice-Mayor Clark, to approve.

Councilmember Paul wanted to separate the variances. Councilmember Truex was willing to withdraw his motion, but Vice-Mayor Clark was not willing to withdraw her second.

In a roll call vote, the vote was as follows: Mayor Venis - yes; Vice-Mayor Clark - yes; Councilmember Paul- no; Councilmember Starkey - yes; Councilmember Truex - yes. (Motion carried 4-1)

*Items to be tabled or withdrawn*

**9.7. STAFF REQUESTING A TABLING TO MARCH 19, 2003**

**CODE AMENDMENT** - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE TOWN OF DAVIE, AMENDING SECTION 12-32(B), ENTITLED "TABLE OF PERMITTED USES"; PROVIDING FOR APPROPRIATE ZONING DISTRICTS FOR VEHICLE SALES AND RENTAL INCLUDING AUTOMOBILE SALES, AUTOMOBILE LEASING, MOTORCYCLE SHOPS AND MOVERS; AND AMENDING SECTION 12-32(C), ENTITLED "TABLE OF PERMITTED USES"; PROVIDING FOR APPROPRIATE ZONING DISTRICTS FOR VEHICLE SALES AND RENTAL INCLUDING AUTOMOBILE SALES, AUTOMOBILE LEASING, BOAT SALES, BOAT RENTAL, MOBILE HOMES, MANUFACTURED HOUSING, RECREATIONAL VEHICLE SALES, HORSE TRAILER AND MOVING TRAILER RENTAL, MOVERS, AND TAXI SERVICE ESTABLISHMENTS; AND AMENDING SECTION 12-34, ENTITLED "STANDARDS ENUMERATED"; PROVIDING FOR DETAILED REGULATIONS REGARDING THE SITING OF SUCH USES; AMENDING SECTION 12-503, ENTITLED "DEFINITIONS"; PROVIDING FOR A DEFINITION OF VEHICLE SALES AND RENTAL; PROVIDING FOR INTENT; PROVIDING FOR REGULATIONS; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE TOWN CODE; PROVIDING FOR AN EFFECTIVE DATE.  
(tabled from January 19, 2003)

This item was tabled earlier in the meeting.

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**9.8. WITHDRAWN BY STAFF**

SE 9-1-02, Verizon Wireless, 15400 Slydgemill Road

This item was withdrawn earlier in the meeting.

**10. APPOINTMENTS**

10.1. Child Safety Board (one exclusive appointment - Councilmember Starkey; term expires April 2004) (whenever possible, members shall have interest and expertise in law enforcement, elementary school instruction, child psychology, pediatric medicine, parenthood and grandparenthood)

Appointments were deferred.

10.2. Open Space Advisory Committee (one exclusive appointment - Councilmember Starkey and Mayor Venis; terms expire April 2004)

Appointments were deferred.

10.3. Parks and Recreation Advisory Board Agency (one exclusive appointment - Vice-Mayor Clark and Councilmember Paul; terms expire April 2004) (members should have a concern with or an interest in the park facilities and recreational needs of the citizens of the Town)

Appointments were deferred.

10.4. School Advisory Board (one exclusive appointment - Vice-Mayor Clark and Councilmember Paul; terms expire April 2004) (insofar as possible, members shall have experience in educational matters, related occupations or other similar skills)

Appointments were deferred.

10.5. Advisory Board Update - Russell Muniz

Town Clerk Muniz advised that all reports from the advisory boards were received and they would be forwarded to Council on the day after this meeting.

**11. OLD BUSINESS**

11.1. Securing OTTED Grant

Mr. Willi referred to the OTTED Grant and asked Council for authority to use any and all legal means to secure the property located near the Jolmy parcel, which was brought forward under the annexation agreement. He stated that the Town had invested over \$2 million in the infrastructure in the east part of Town and the Town could be reimbursed \$1.4 million.

Councilmember Paul made a motion, seconded by Vice-Mayor Clark who passed the gavel, to give Mr. Willi the authority to take any and all legal means necessary to secure the property near the Jolmy parcel. In a voice vote, with Mayor Venis being absent, all voted in favor. (Motion carried 4-0)

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- 11.2. **AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA AUTHORIZING THE MAYOR AND THE TOWN ADMINISTRATOR TO ENTER INTO AN AGREEMENT BETWEEN THE TOWN OF DAVIE AND CARLOS ANGULO; TO ACKNOWLEDGE SUCH APPROVAL BY AFFIXING THEIR SIGNATURES TO SAID AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE. (tabled from January 19, 2003)

Councilmember Paul indicated that she added this issue for an update regarding additions and changes made in response to the last meeting. She wanted it clarified for the C.O. for Mr. Angulo.

Town Engineer Larry Peters indicated the developer wanted \$10,000 for the 2,700 square feet of land the petitioner needed for the right-of-way, and that amount was "prohibitive." He felt there was an impasse and stated that the petitioner had withdrawn his offer.

Mr. Kiar stated that he had spoken with the owner of the property who had indicated that he and his partner were willing to accept \$7,500 for the land the petitioner needed. Mr. Peters thought that was still not acceptable and advised that the petitioner had representation.

Mr. Kiar understood that a building permit was issued in error. He referred to the letter to Mr. Angulo received from the County, which indicated that some jurisdictions might be more restrictive and that "the Town of Davie's platting requirements should be investigated." Mr. Kiar clarified that he was asked to research the legal aspect, which he did, and referred to case law that supported the Town's decision to not grant Mr. Angulo a building permit.

Councilmember Paul had concerns regarding the roadway and the driveways. She could not understand how this project had proceeded in the manner in which it was developed. Councilmember Paul also spoke of the connectivity of the horse trail, which should have been east-west, rather than north-south. Mr. Peters indicated that the north-south connectivity was for the adjacent developments and was meant for equestrians, pedestrians, and cyclists. He indicated that all developments to the south of the property in question had donated 25 feet so there would be connectivity along the western boundary. Councilmember Paul clarified that if the connectivity went north-south, it would go from the canal to SW 27 Street. Mr. Peters reiterated that staff's goal was to have connectivity using SW 27 Street and the new developments.

Councilmember Paul wanted to know why the swale issue and the driveway were not on the correction list. She referred to the flooding concerns in this area and questioned what the survey indicated as far as the size of Mr. Angulo's property. Mr. Peters advised that the size was approximately 36,400 square feet, or one-third of the two and one-half acres. Councilmember Paul questioned why the property was non-conforming at 36,000 square feet. Mr. Peters indicated that the property would be non-conforming until the two and one half acres were platted and the Town could take rights-of-way. He clarified that staff was asking Mr. Angulo to agree that once the property was platted, the Town would get the right-of-way.

Mr. Leiva indicated that staff's goal was to achieve conformity with the lot. He explained that if Mr. Angulo gave up the right-of-way, he would not be in compliance because he would have less than 35,000 square feet, but he would have a legal, non-conforming lot.

Councilmember Paul felt that this issue came about because Mr. Angulo was misinformed.

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Neil Kalis, representing Mr. and Mrs. Angulo, summarized the petitioner's position. He referred to a memo he sent Mr. Kiar and corrected page two/paragraph two, which should have read 8.79 feet rather than 9.94 feet. Mr. Kalis referred to the Town Code Section 12-360, paragraph B1-A - exemption from platting. He felt that staff had acted appropriately and consistently. Mr. Kalis stated that his client's lot was currently a legal lot, as it was greater than 36,000 square feet. He stated that once Mr. Angulo gave up the requested right-of-way, he would have a legal, non-conforming lot, which would be problematic when requesting financing because the lot would not comply with the Town's Code. Mr. Kalis felt that the C.O. should be issued to his client so that he could sell the house. He reminded that his client acted in good faith and tried to resolve this with staff and with the developer.

Mr. Kiar disagreed with Mr. Kalis' interpretation of Town Code Section 12-360. Mr. Kalis reiterated that staff acted consistently and that was why they were not at fault.

Ken DeArmas, the developer, spoke of the history of this issue and how the purchase and land clearing of his property precipitated the issue being brought before Council. Councilmember Paul wanted to know why Mr. DeArmas allowed development to proceed without platting if he knew there was going to be more than one house on the fourteen acres. Mr. DeArmas stated that he was still investigating whether two or three houses were going to be permitted on the two and one half acre lot and he allowed Mr. Angulo to build. If only two houses were permitted, then the borderline was going to be eliminated. Councilmember Paul stated that Mr. DeArmas had constructed three pads on the property. Mr. DeArmas explained that this was his burden and he would lose the money invested. He clarified that he had allowed Mr. Angulo to build first because he was not interested in that lot as it was at the end of a cul-de-sac. Mr. DeArmas felt that Mr. Angulo did not have a lawsuit against him because he sold Mr. Angulo the lot and it was in conformance based on the date, March 1989, the two and one half acres were originally platted. Mr. Kalis clarified that the property was not platted, but it was a "lot of record."

Discussion followed regarding the need and procedures for platting and the jurisdiction of the Town.

Councilmember Paul referred to conversations she had with Mr. DeArmas in the past, where he said he was going to put three houses on the lot and she told him it was not going to be possible. She indicated that Mr. DeArmas should have given Mr. Angulo the land he needed for the right-of-way to resolve this issue, which he instigated by not following the Code.

Mr. Peters felt that Mr. DeArmas had absolute intent to build three homes on the site and stated that there were folio records to prove this. He felt that approving Mr. Angulo's C.O. at this time would set a precedent; however, clarified that the fault was not with Mr. Angulo, but with Mr. DeArmas. Mr. Peters stated the developer had agreed to sell the land to Mr. Angulo, but at an exorbitant price, rather than giving it to him as he should have. Mr. DeArmas stated that he would be more than willing to give Mr. Angulo the land if the Town agreed not to take the ten feet from in front of his property. Mr. Peters indicated that this was Council's decision because when the land was platted, ten feet would be required.

Vice-Mayor Clark asked if anyone wished to speak on this matter.

Fran Curry felt that the deception was done by the developers for this property and for Calamity Acres, as they did not pull permits for the pads or the clearing and they were issued a cease and desist order. He felt that allowing this C.O. would set the Town up for a lawsuit in the

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future. Mr. Curry also felt the developer was trying to take advantage of the Town and if Council allowed it, it would continue.

Mark Gabrielson, 15095 SW 27 Street, felt that approving this would be a mistake and would increase the traffic in the area in the future. He stated that this would decrease property values in the area.

Tom Nunn, 15100 SW 27 Street, wanted to know if the horse trail would go through Calamity Acres. Mr. Peters indicated that it would.

Vice-Mayor Clark closed the public input.

Councilmember Paul felt the problem stemmed from the actions of Mr. DeArmas and she felt that the solution would be not to have a non-conforming use. She felt the only solution would be for Mr. DeArmas to bear the brunt.

Mr. DeArmas informed Council that he would give Mr. Angulo the land necessary to remain a legal, conforming lot. Mr. Kalis felt that it was a concern whether Mr. DeArmas' offer could be accepted, as it was unknown if he was a principal of the firm or just a representative. Councilmember Paul felt that a fax communication should be submitted to the Town putting this offer in writing. Mr. Kalis felt that these issues should be separated and his client should not be held accountable in case Mr. DeArmas' partner reneged on the offer.

Councilmember Truex suggested that Council deny the resolution.

Mr. DeArmas formally suggested that he would take personal responsibility, give Mr. Angulo the land he needed and he would pay for the quit claim deed and expenses so that Council could grant Mr. Angulo his CO. He stated that he would contact Jenny Poor, his real estate attorney who did the closing for Mr. Angulo, who would make all of the arrangements for the quit claim deed.

Councilmember Paul made a motion, seconded by Councilmember Starkey, to approve based on the representations made by Mr. DeArmas in relation to giving up part of the land, making sure that this was taken care of first thing in the morning, based on Mr. DeArmas saying that even if his partner did not agree he would take care of it personally.

Councilmember Truex stated that the resolution should not be needed if the C.O. could be issued on the day after this meeting. Mr. Willi recommended denial as this item was no longer relevant in light of Mr. DeArmas' promise. Mr. Kalis reiterated that he was concerned that Mr. DeArmas did not have the authority to make such promises.

Councilmember Paul withdrew her motion and made another motion that Mr. Angulo gets his CO. The motion died for lack of a second.

Mr. Kutney suggested that the Town issue a conditional C.O. the day after this meeting with the condition that the necessary square footage be dedicated and if it was not dedicated, it would be taken to the Special Master when Mr. DeArmas came in for his plat. Mr. Kalis indicated that the letter from his client and the buyer that if "they" receive the property, they would dedicate the other property. He indicated that this letter may need to be revised based on tonight's discussion. Mr. Kalis stated that he could deliver the document to the Town but he could not control what Mr. Needo would do. He added that the buyer would be on notice on what would be agreed to. Councilmember Paul clarified that the condition would be attached to the platting not to the CO. Mr. Kalis advised that he did not have a problem with this.

Councilmember Paul made a motion, seconded by Councilmember Starkey, to issue a C.O. under the condition that the appropriate land was transferred at the time of platting of the

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other piece of property. In a roll call vote, with Mayor Venis being absent, the vote was as follows: Mayor Venis - absent; Vice-Mayor Clark - yes; Councilmember Paul - yes; Councilmember Starkey - yes; Councilmember Truex - no. (Motion carried 3-1)

**12. ADJOURNMENT**

There being no further business to discuss and no objections, the meeting adjourned at 1:48 a.m.

Approved \_\_\_\_\_

\_\_\_\_\_  
Mayor/Councilmember

\_\_\_\_\_  
Town Clerk